

Attorney Docket No.: 02CON382P-CIP  
Application Serial No.: 10/655,698RECEIVED  
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**REMARKS**

In the Office Action of January 23, 2007, the Examiner has rejected claims 1-21. By the present amendment, applicant has amended claims 1-21. By the present amendment, claims 15-21 have been amended. After the present amendment, claims 1-21 remain pending in the present application. Reconsideration and allowance of outstanding claims 1-21 in view of the above amendments and following remarks are requested.

**A. Rejection of Claims 1-21 under the Judicially Created Doctrine of Obviousness-Type Double Patenting**

The Examiner has rejected claims 1-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent Application Serial No. 10/600,163, filed on June 19, 2003.

Along with the present amendment, applicant has submitted a terminal disclaimer to overcome the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting with respect to claims 1-31 of U.S. Patent Application Serial No. 10/600,163, filed on June 19, 2003. Applicant respectfully submits that the enclosed terminal disclaimer overcomes the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting.

**B. Rejection of Claims 15-21 under 35 USC § 101**

The Examiner has rejected claims 15-21, under 35 USC § 101, as being directed to non-statutory subject matter. By the present amendment, applicant has amended claims 15-21 to recite "A computer readable media embodying a computer software product for encoding each

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picture in a sequence of pictures ....” Accordingly, it is respectfully submitted that rejection of claims 15-21 has been overcome.

**C. Rejection of Claims 1-21 under 35 USC § 102(b)**

The Examiner has rejected claims 1-21 of the present application for lacking novelty under 35 USC § 102(b), as being anticipated by Veltman (US Patent No. 5,481,543) (“Veltman”). For the reasons stated below, applicant respectfully disagrees.

Applicant respectfully submits that the system target decoder behavior of the present invention is different from that described in Veltman with respect to the arrival schedule of bits into the video pre-decoder buffer. Although, the pre-decoder buffer of the present application is analogous to Video Input Buffer 62 of Veltman, as shown in FIG. 17, FIG. 18 of Veltman shows a constant bit rate arrival time for data entering Video Input Buffer 62, as evidenced by the linearly rising curve at the top of FIG. 18, which Veltman calls “substantially constant.” (See col. 27, line 13.) Therefore, ignoring the small gap where no data is entering Video Input Buffer 62 as a result of Veltman's directory data --which is not an aspect of the present invention--, Veltman's arrival rate is constant.

On the other hand, the arrival rate of the present invention would have gaps whenever the earliest arrival time was later than the arrival time determined by constant rate input. Turning to independent claim 1, it recites “selecting, for said picture, a number of bits, wherein the time-equivalent of said number of bits is no greater than a difference based on said pre-decoder buffer removal time of said picture and an initial arrival time of said picture into a pre-decoder buffer.” Thus, for example, claim 1 limits the arrival time of the second (and any subsequent) picture

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based on a difference in removal times of the first two pictures, which is described in the present application. It is kindly submitted that this arrival schedule with gaps based on removal time differences is a key aspect of the present invention, which is not disclosed, taught or suggested by Veltman in FIG. 22A or any other place in Veltman.

One practical advantage of the invention of claim 1 is that the gap based on removal times enables the hypothetical model to be like a real encoder, which can only emit compressed bits for a picture after the picture has been captured and encoded. This happens if the HRD removal time mirrors the capture time (with a suitable delay), and that can be arranged at the discretion of the encoder.

Accordingly, applicant respectfully submits that claim 1, and its dependent claims 2-7, are patentably distinguishable over Veltman. Further, independent claims 8 and 15 include limitations similar to those of claim 1. Therefore, claims 8 and 15, and their respective dependent claims 9-14 and 16-21, are also patentably distinguishable over Veltman.

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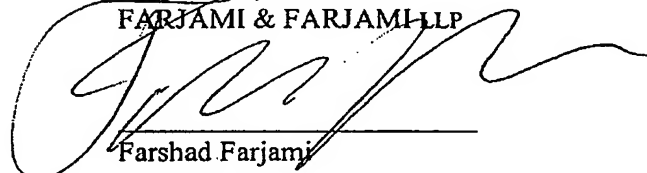
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D. Conclusion

For all the foregoing reasons, an early Notice of Allowance directed to claims 1-21 is respectfully requested.

Respectfully Submitted,  
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